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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: William T. Sanders

Serial No.: 10/621,182

Filed: 7/16/03

For: **TRANSPORTABLE ICE MAKER**

Examiner: Ali, Mohammad M.

Group No.: 3744

Docket No.: 030454.00004

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Transmittal Letter

Please find the following correspondence items enclosed for filing in the United States Patent and Trademark Office:

1. Appeal From the Final Rejection of 10/27/04, in triplicate; and
2. Return Receipt Postcard.

Please charge the Appellant Brief Fee of \$250.00 to Deposit Account No. 502079. A duplicate copy of this letter is enclosed.

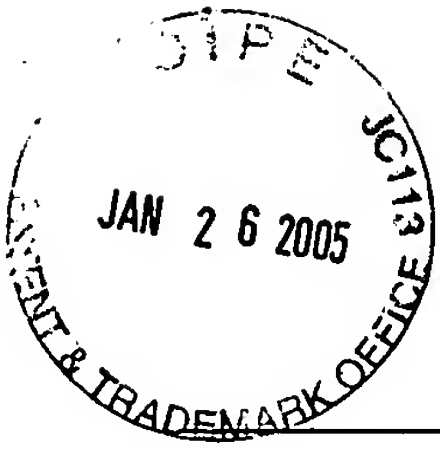
Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as "FIRST CLASS MAIL" with sufficient postage affixed thereto, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 24, 2005.

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Dear Sir:

APPEAL FROM THE FINAL REJECTION OF 10/26/04

1. *Party of Interest:*

The real party of interest is William T. Sanders

2. *Related Appeals and Interferences:*

There are no other appeals or interferences which affect or will be effected by the Board's decision known to Appellant.

3. *Status of Claims:*

Claims 1-23 were originally presented with claims 24-32 added in the responses of 1-19-04 and 7-15-04.

Claims 1-20 were cancelled as being allowed in co-pending application Serial No. 10/356,975, now U.S. Patent No. 6,622,506.

Claims 24-26 were cancelled in the response of 7-15-04.

Claims 21-23 and 27-32 stand rejected, which rejections are here appealed.

4. *Status of Amendments:*

No amendments have been filed subsequent to the Final Rejection of 10-26-04. A Request for Re-consideration of that Final Rejection was filed on 11-08-04 which was denied on 12-02-04 and again on 12-29-04.

5. *Summary of the Invention*

The invention is directed to a portable ice dispensing machine, more particularly, the alternative arrangement of an ice dispensing machine as described on pages 8 and 9 of the Specification. The ice dispensing machine, shown in Figures 4-7 and best seen in Figure 4, includes a dispensing panel 62, which attaches with the side wall 24 of a compartment containing an ice making and dispensing machine (the dispenser being shown at 46). The side wall 24 includes an opening 56 through which an ice dispensing chute 58 extends.

Panel 62 includes a recess, a delivery chute 68 and an actuator 72 which may include a money receptacle, and an actuating or start button. Panel 62 further includes a display front 64 and a delivery section 64'.

As is shown, dispenser chute 58 extends into the panel chamber where it engages into delivery chute 68 which extends into delivery section 64'.

Tray 70 is arranged about 2' beneath the chute. This distance is sufficient to receive an ice chest beneath delivery chute 68 for convenient delivery of large volumes of ice.

The arrangement functions as follows: The device is in place with dispensing panel or display front connected with side wall 24 and dispenser chute 58 passed through opening 56 into position above delivery chute 68. An ice chest is

positioned on tray 70, actuator 72 is actuated and ice is delivered from dispenser 46 out of compartment 18 through panel 62 by way of chutes 58, 68 and into the ice chest.

This arrangement provides for placement of large containers such as ice chest to be positioned to receive for large quantities of ice delivered directly from the ice dispenser into the large container, which type containers are not acceptable by prior ice delivery systems.

The actuating unit as shown in Figure 4 at 72 and described on page 8, paragraphs 4 and 5 are described as a conventional unit which may include a money receptacle, a start button and a money changer.

6. *Issues for Review:*

The objection to the drawings under 37 CFR 1.83(a) as failing to show "money receptacle" and "changer" for claims 21, 27, 29. The drawing and accompanying description was sufficient to support claim 6 of the parent application, Patent No. 6,622,506. It is also noted the disclosure of the Boulter reference, Figure 20, shows similarly an actuator without providing a detailed description.

It is noted that Appellant will gladly amend the drawing to satisfy 37 CFR 1.83(a) if the structure deemed necessary to be shown be more specifically called for.

The rejection of claims 27-32 under 35 USC 112 as indefinite. The terms "set volume of ice" and "pre-set volume of ice" are held to be indefinite.

Rejection of claims 21-23 under 35 USC 102(b) as anticipated by Boulter.

Rejection of claims 21-32 under 35 USC 103(a) as unpatentable over Boulter.

Claims 27-32 stand rejected as indefinite under 35 USC 112, second

paragraph. The rejection stated that the phrase “set volume of ice” in claim 31 and “pre-set volume of ice” in claim 32 renders the claims indefinite.

This holding is respectfully traversed. The phrase “volume of Ice” merely indicates that the actuator causes the machine to deliver ice for a selected time period or delivers a fixed amount of ice which is the usual mode of operation for these type machines. There is nothing novel nor related to the invention as to how much ice this volume of ice constitutes or what a set volume is delivered.

7. Grouping of Claims:

Claims 21-23 stand rejected under 35 USC 102(b) as anticipated by Boulter.

Each of claims 21 and 22 is believed to be independently patentable. Claim 22 depends from claim 21. Claim 21 sets for the specific dispensing machine structure. Claim 22 further defines the dispensing panel of the claimed structure to include a chamber, the chamber cooperating with the recess to receive the dispenser chute and the delivery chute.

Claims 27-32 stand rejected under 35 USC 103(a) as unpatentable over Boulter.

Claim 32 is an independent article claim from which claims 27-30 depend. Claim 31 is a method claim. As such, it is believed that claims 31 and 32 are clearly separately patentable.

Accordingly, it is urged that claims 21 and 22 of the group of rejected claims, comprising claims 21-23 be considered. Also, as claims 31 and 32 of the group of rejected claims 27-32 are directed to method and apparatus, respectively, it is urged

that they also be considered independently.

8. *Argument:*

The rejection of claims 27-32 as indefinite under 35 USC 112 because the phrase “set volume of ice” in claim 31 and “pre-set volume of ice” in claim 32 is held to render the claims indefinite, is believed to be improper.

The claims are directed to an ice dispensing machine which type machines are common and well known. Typically, these machines are actuated by a control to deliver ice through a chute into an area containing a container. The control may or may not be coin readied or actuated. The amount of ice delivered is a pre-set volume or a set volume of ice. There is nothing novel in this operation or the means to bring about this operation. Nor is there any significance in the volume of ice delivered, the deliveries are simply equal. It is thought that the phrases “pre-set volume” or “set volume” are simply generic to the operation of ice vending machines, and as such, are clear as to their intended meaning.

Claims 21-23 are rejected under 35 USC 102(a) as anticipated by Boulter.

The Boulter reference is directed to a kiosk or multi-sided building in which selected sides are provided with vent windows which house water and ice dispensers with signage. Behind the ice dispensing windows is provided ice making, storage and delivery apparatus. An actuator actuates the ice maker and dispenser to make and deliver a set volume of ice when actuated. A container may be positioned beneath the ice delivery chute to receive the delivered ice.

Claim 21 calls for an ice dispensing machine including “a compartment including a compartment wall” and “a dispensing panel attached to said compartment

wall.”

The reference does not contemplate requiring a walled compartment to which a separate panel is attached.

The claim calls for an ice “dispenser chute” within the compartment and passing through an “opening” in the compartment wall. The claim also calls for a second chute, i.e. an “ice delivery chute.” The claim then calls for the “ice delivery chute to pass through said dispensing panel into position to receive ice from said dispenser chute.”

The reference does not contemplate this structure or function.

For the above stated reasons, it is believed claim 21 is clearly not anticipated under 35 USC 102(a) by the Boulter reference.

Claim 22 includes all distinguishing limitations above set forth and further sets forth that “the upper end of said ice delivery chute is located within a chamber formed in said dispensing panel.”

The reference does not disclose this structure or component arrangement.

Claim 31 is rejected under 35 USC 103(a) as unpatentable over Boulter.

The rejection as set forth recites an assemblage of parts or components. The rejection does not set forth a single method step taught by the reference.

Claim 31 is directed to a method of providing components, connecting these components into specific relationships and actuating the arranged components to deliver ice into an ice chest.

The rejection does not address this method as claimed.

Further, the method claimed calls for providing a compartment which

includes an ice maker and an ice dispenser having a dispensing chute. The method further includes providing a dispensing panel and connecting the dispensing panel with the compartment.

The reference does not teach this method of assembly, nor does it teach providing the components to be assembled.

The claim calls for providing the dispensing panel with a display front, a chamber which receives a delivery chute, an activating unit and a shelf.

The reference does not teach providing such a panel.

For the above stated reasons, it is believed that claim 31 clearly and patentably distinguishes over the rejection as set forth.

Claim 32 is rejected under 35 USC 1039a) as unpatentable over Boulter.

Claim 32 calls for an ice dispensing machine including a compartment having a side wall and a dispensing panel attached to said side wall.

The reference does not disclose such structure.

The claim further calls for the dispensing panel to have "a display front, an actuator, a delivery chute and a support tray about 2 feet beneath said delivery chute."

The claim calls for "said delivery chute" (formed with the panel) being positioned to receive ice from through the "dispenser chute" (located in the compartment).

The reference provides no such structure.

The claim calls for positioning an "ice chest on the support tray" to receive delivered ice.


Boulter makes no reference to an ice chest or container size and especially no reference to providing support for an ice chest.

The reference, Boulter, is directed to an ice and water dispensing arrangement which comprises a single multi-sided house with the ice forming and dispensing equipment inside with the signage and ice delivery elements being wall mounted. The reference does not contemplate an attachable dispensing panel nor does it contemplate a pair of ice delivery chutes, nor does it contemplate a device capable of supporting in position to receive ice in an ice chest.

For the above reasons, it is believed that claims 27-30 and 32 clearly define over the rejections as set forth.

Favorable consideration is respectfully requested.

Respectfully submitted,



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9. *Appendix of Claims:*

Claims 1-20 (cancelled)

Claim 21 (previously presented): An ice dispensing machine including:

a compartment including a compartment wall, said compartment containing an ice dispenser including a dispenser chute said compartment wall having an opening through which said dispenser chute is positioned;

a dispensing panel attached to said compartment wall and including a front with a display and a recess;

an ice delivery chute passing through said dispensing panel into said recess, said ice delivery chute being adapted to receive ice from said ice dispenser through said dispenser chute;

a shelf arranged beneath said delivery chute, a distance sufficient to allow an ice chest or ice bag to be positioned beneath said ice delivery chute; and,

an activating unit, including a money receptacle, for accepting money and activating said ice dispenser to deliver ice through said dispenser chute and said delivery chute into said ice chest or ice bag.

Claim 22 (previously presented): The panel of Claim 21 wherein an upper end of said ice delivery chute is located within a chamber formed in said dispensing panel, said chamber receiving said upper end of said dispenser chute.

Claim 23 (previously presented): The panel of Claim 21 wherein said dispensing panel includes a bag dispenser.

Claim 24-26 (cancelled):

Claim 27 (previously presented): The ice dispensing machine of claim 32

wherein said actuator includes a bill receptor and changer.

Claim 28 (previously presented): The ice dispensing machine of claim 32 wherein said display front includes a recess in which said delivery chute is located within said recess.

Claim 29 (previously presented): The ice dispensing machine of claim 28 wherein said shelf is pivotally mounted within said receptor.

Claim 30 (previously presented): The ice dispensing machine of claim 32 wherein said dispensing panel includes a display panel above said delivery chute.

Claim 31 (previously presented): A method of producing and dispensing ice including:

providing a compartment which includes an ice maker and an ice dispenser with an ice dispensing chute;

providing a dispensing panel which includes a display front, a chamber which receives a delivery chute, an activating unit, and a shelf beneath said delivery chute;

connecting said dispensing panel with said compartment with said dispensing chute positioned within said chamber and received in said delivery chute;

providing an ice chest which is approximately 2' high and placing said ice chest on said tray beneath said delivery chute;

actuating said actuating unit to cause said ice maker to make a designated set volume of ice and said dispensing machine to deliver said ice through said dispensing chute and said delivery chute into said ice chest and removing said ice chest.

Claim 32 (previously presented): An ice dispensing machine including a compartment having a side wall and a dispensing panel:

said compartment containing an ice making machine and an ice dispenser, said ice dispenser being adapted to receive, store and dispense ice;

said dispensing panel being attached to said side wall and having a display front, an actuator, a delivery chute, and a support tray positioned about 2 feet beneath said delivery chute;

said delivery chute being positioned to receive ice from said dispenser through a dispenser chute passing through said wall;

an actuator being operative to activate said dispenser to deliver a set volume of ice; whereby,

clearance is provided to position an ice chest on said support tray to receive said pre-set volume of ice delivered from said dispenser through said dispenser chute and said delivery chute upon actuation of said actuator.